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March 3, 2005

Mr. Michael Owen

DOE, Office of Legacy Management
1000 Independence Ave. SW
Room 6G030
Washington, DC 20585

Mr. Michael Owen:

Recommendation 2005-01: Recommendations for Convening and Managing a Fernald Local Stakeholder Organization (LSO)

On February 10, 2005, Audrey Berry from the DOE Office of Legacy Management spoke to the Fernald Citizens Advisory Board (FCAB) regarding DOE plans to form a Local Stakeholder Organization (LSO) for the Fernald site. Ms. Berry asked the FCAB to provide DOE with input on how to structure the LSO and what its role should be in post-closure management of the Fernald site.

The FCAB places high value on the role of public participation in the past and future management of Fernald. For 12 years the FCAB has provided input to DOE on the cleanup and future use of the Fernald site, contributed significantly to the quality of decision making, and built trust among the public, DOE, its contractors, and the site's regulators. As the site transitions from active cleanup to long-term surveillance and maintenance (LTSM), the FCAB hopes to help DOE sustain the community knowledge and working relationships built through participation.

Moreover, our suggestions regarding a Fernald LSO are grounded in the community vision for the future of the site and our research into long-term stewardship practices. In 1999, a full range of stakeholders solidified a vision for the future of Fernald as undeveloped parkland that would serve as a regional destination for education. The community, which has born significant stigma and upheaval during the operation and cleanup of this uranium processing facility, has great expectations that the site will become a major local asset. In order for that to occur, the site must be maintained in a safe manner. In our 2002 report, *Telling the Story of Fernald*, the FCAB explained that the community would play a critical role in ensuring the continued protection of human health and safety at Fernald. The public is the only entity guaranteed to maintain a continuous, long-term presence near the site. Only a well-informed public can be realistically expected to preserve the integrity of institutional controls and maintain confidence in the remedy that was implemented at Fernald. The role of the public will become increasingly important as the local population increases and federal presence at the site diminishes.

Our recommendations focus on the mission of the LSO, the convening process, the ongoing management of the group, and the application of the Federal Advisory Committee Act (FACA) to the LSO.

Purpose and Mission

Establishing a clear purpose and mission for the LSO will provide crucial guidance in developing and managing the group, and it will help the members to better understand and manage expectations regarding their role. A two-pronged approach may be required for the Fernald LSO: short- and long-term. Over the first few years of LTSM, Legacy Management will solidify its management practices and tweak institutional controls. The aquifer restoration project will also continue to operate, and ecological restoration projects will require active management. During this time, the LSO would take an active role in advising the decisions of Legacy Management and its contractors. In the long-term, once management practices have become routine, the aquifer project is completed, and the ecological restoration has proven self-sustaining, the frequency of LSO meetings and the profile of the group may diminish.

The FCAB offers these specific recommendations regarding the mission and purpose of the Fernald LSO:

- Prior to convening the group, establish a clear purpose for the LSO and how DOE envisions using the input of the LSO in its decision making. This will diminish confusion and false expectations regarding the role of the group. It will be especially important to recognize activities in which the LSO will not be engaged that the community has identified as important elements of community-based stewardship. This will provide guidance to community organizations where additional activities and organizations will need to provide support.
- Empower the LSO by requiring DOE to respond to its recommendations within a reasonable timeframe. DOE must be accountable for providing feedback on their recommendations in order for the LSO members to believe their input is meaningful.
- Consult the LSO early in decision-making processes, before documents have been drafted or preferred alternatives are selected. By consulting the group early, community values can be integrated into preliminary drafts and proposals and trust between DOE and the community will be maintained.
- Involve the LSO in resolving difficulties that arise during LTSM. Engaging the community in problem solving builds trust, and the FCAB has demonstrated that community input can contribute to achieving reasonable, effective solutions to technical problems.
- Consult the LSO on issues related to community involvement and communications, natural resource management, records management, and historic preservation, in addition to LTSM issues. The community has shown a long-term commitment to all of these issues.

Convening Process

It is critical that the LSO represent the full range of interests in the Fernald community. The FCAB is familiar with the language in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, which specifies that LSOs be composed of local elected officials or their designees. The FCAB agrees that elected officials are an important voice in post-closure management of the Fernald site; however, the FCAB's success is credited, in part, to its inclusion of a broad range of community interests. As such, the FCAB offers the following recommendations for the LSO convening process:

- Define "local elected official." The FCAB recommends that local elected officials be comprised primarily of trustees of Crosby, Morgan, and Ross Townships. These are the communities immediately surrounding the Fernald site. Elected officials at other levels of government may be appropriate participants, depending on their involvement in the post-closure management of the site.
- Seek agreement from local elected officials that an independent convener be used to determine the critical voices to be represented on the LSO and recommend specific stakeholders for appointment to the group.
- Include representatives of groups and organizations with a longstanding commitment to the Fernald site and extensive knowledge of the site's history. These groups include the FCAB; Fernald Residents for Environmental Safety and Health (FRESH); Fernald Living History, Incorporated; historical societies in the local townships; Fernald Atomic Trades and Labor Council; Fernald Community Health Effects Committee; and nearby universities.
- Determine a target distribution of representatives from the three local townships and areas beyond those townships. While all three townships should be represented, it is also important to take into account that nearly 90 percent of the Fernald site sits in Crosby Township.
- Determine potential ex-officio members. The FCAB recommends, at minimum, providing a seat to the Ohio Environmental Protection Agency, the U.S. Environmental Protection Agency, and the primary DOE contractors for LTSM, natural resource management, and records management. Full participation by these organizations is essential for the LSO to operate with full information of site activities.

Ongoing Management

The FCAB has operated as a successful advisory group for more than a decade. The following recommendations reflect operational factors that have contributed to that success:

- Be very clear about who within the Office of Legacy Management has responsibility for the administration of LSOs.
- Clarify how a budget will be provided for operation of the LSO and how the community can contribute to decisions regarding the funding of post-closure public participation.
- Encourage continuity within the membership of the LSO as a way to maintain institutional knowledge and a high level of commitment. If members serve a finite term, stagger the terms so there is a mix of experienced and new members.
- Develop a clear charter with which all LSO members agree. Charters for the Office of Environmental Management's Site-Specific Advisory Boards (SSABs) and the FCAB would serve as good starting points for developing a charter for the Fernald LSO. The charter ensures that all stakeholders understand the role of the advisory group and the responsibilities of all parties.
- Focus on consensus-based decision making within the LSO. Building consensus requires that stakeholders share and listen to each other's interests and seek creative solutions that meet the needs of all parties.
- Provide opportunities for members of LSOs to interact with stakeholders at other sites around the complex. The FCAB has found great value in sharing information and learning from the experiences of stakeholders facing similar challenges around the country. Early on, it may make sense for LSOs to collaborate on national events sponsored by the SSABs.
- Contract with an independent facilitator to manage LSO meetings and provide technical support to the group. Our facilitation support contractor has been critical to the efficiency of FCAB meetings, helping the members understand technical issues, and producing high-quality products.
- Collaborate with the LSO membership to develop an annual report and work plan that summarizes accomplishments and sets goals for the coming year. Distribute these documents widely and make them available on appropriate web sites, in order to ensure that the LSO and DOE are accountable to the broader community.
- Work with the LSO during the annual site budget process, particularly with regards to public participation activities. Involving stakeholders in this process creates a shared responsibility for the site and a greater understanding of interests among all stakeholders.

Application of FACA

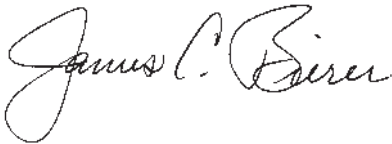
The FCAB understands and respects the intent of the Federal Advisory Communications Act (FACA). However, the FCAB also believes that the benefits of FACA can be achieved without the often cumbersome and time-consuming administrative requirements of the Act. In order to meet the Congressional mandate that LSOs be in place six months prior to site closure, the FCAB recommends that the Fernald LSO follow the spirit of the Act but not be officially chartered under FACA. Key features of a FACA board that the FCAB recommends that DOE apply to the Fernald LSO are:

- Seek a balanced membership that represents the full range of voices in the Fernald community.
- Notify the public of LSO meetings and open the meetings to the public.
- Develop an LSO charter, which provides a clear mission and intent for the group.
- Provide adequate funds and staff resources for the successful administration of the LSO.
- Develop an annual report, which documents the accomplishments of the past fiscal year and outlines a plan for the coming year.

Thank you for the opportunity to provide input on the structure and operation of an LSO for the Fernald community. The FCAB looks forward to a continuing dialogue regarding post-closure public involvement at the Fernald site and working with DOE to ensure a smooth transition between the FCAB and the LSO.

Please contact us if you have any questions or would like additional clarification on any of the recommendations provided by the FCAB.

Sincerely:

A handwritten signature in black ink that reads "Jim Bierer". The signature is fluid and cursive, with the first name "Jim" and last name "Bierer" clearly legible.

Jim Bierer
Chair

A handwritten signature in black ink that reads "Lisa Crawford". The signature is fluid and cursive, with the first name "Lisa" and last name "Crawford" clearly legible.

Lisa Crawford
Vice-Chair

cc:
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